

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Viswanathan SRINIVASAN et al.	Confirmation No. 4898
		Group Art Unit: 1615
Appl. No:	: 10/798,884	
		Examiner: Sasan, Aradhana
Filed	: March 12, 2004	
For	: DOSAGE FORM CONTAINING A MORPHINE DERIVATIVE AND ANOTHER DRUG	

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Appeal Brief - Patents
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

This is in response to the (second) Notice of Non-Compliant Appeal Brief mailed August 15, 2008 (hereafter "Notice") which sets a one-month period for reply to expire on September 15, 2008.

According to the Notice, the Supplemented Appeal Brief filed May 29, 2008 "does not contain arguments of the appellant with respect to each ground of rejection presented for review and the basis therefor, with citations of the statutes, regulations, authorities, and parts of the record relied on as required by 37 CFR 41.37(c)(1)(vii). Appellant does not address the provisional non-statutory obviousness-type double patenting rejections over copending Applications 10/736,902, 10/910,806, 10/939,351, 11/012,267, 11/115,293 and 11/115,321".

In response, Appellants respectfully submit that as set forth at page 9, first full paragraph of the Supplemented Appeal Brief filed May 29, 2008 (and the original Appeal Brief filed April 21, 2008) the provisional non-statutory obviousness-type double patenting rejections over copending Applications 10/736,902, 10/910,806, 10/939,351, 11/012,267, 11/115,293 and 11/115,321 are not presented for review. In particular, the Appeal Brief indicates that Appellants will address these provisional rejections once the Board has rendered a decision on the rejections presented for review. In this regard, it is noted that neither the present application nor any of the copending applications contains claims which have already been allowed or indicated to be allowable, wherefore the filing of a Terminal Disclaimer with respect to any of the copending applications would be premature.

In view of the foregoing, Appellants respectfully request that the present Notice be withdrawn and the arguments with respect to the rejections which are presented for review in the Appeal Brief be considered by the Examiner.

The U.S. Patent and Trademark Office is hereby authorized to charge any fees which may be deemed necessary to preserve the pendency of the present application to Deposit Account No. 19-0089.

Should there be any questions, the Examiner is invited to contact the undersigned
at the telephone number below.

Respectfully submitted,
Viswanathan SRINIVASAN et al.

A handwritten signature in black ink, appearing to read 'Stephen M. Roylance', written over a horizontal line.

Stephen M. Roylance
Reg. No. 31,296

September 8, 2008
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